

1 THE HONORABLE JAMES L. ROBART
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7 **UNITED STATES DISTRICT COURT**
8 **WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

9 GERALDINE BARABIN, as Personal) NO. 2:17-cv-00597-JLR *AND ORDER*
10 Representative for the Estate of HENRY)
11 BARABIN, deceased,) STIPULATED MOTION TO CONTINUE
12 Plaintiff,) INITIAL SCHEDULING DATES
13 vs.)
14 ASTENJOHNSON, INC., et al.)
15 Defendants.)
16)
17)
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25)

JLR

RELIEF REQUESTED

The parties (Plaintiff and Defendants) seek to continue the deadlines set forth in the Court's April 27, 2017 Order Regarding Initial Disclosures, Joint Status Report, and Early Settlement, for the reasons set forth below.

FACTS

This case is the wrongful death counterpart to Case No. 2:07-cv-01454-JLR, which involves Plaintiff's personal injury/survival claims for her decedent, Henry Barabin. The wrongful death and survival cases both arise from Plaintiff's allegations that Mr. Barabin contracted and died of mesothelioma as a result of exposure to asbestos. Plaintiff filed this

1 wrongful death case in King County Superior Court after the Ninth Circuit reversed a verdict in
2 Plaintiff's favor for the survival claims and remanded it to the Western District for a new trial.

3 Like the personal injury/survival case, the instant case was removed to the Western
4 District based on diversity jurisdiction. On April 27, 2017, the Court issued its Order Regarding
5 Initial Disclosures, Joint Status Report, and Early Settlement, which set the deadlines for the
6 FRCP 26(f) conference (May 25), FRCP 26(a)(1) initial disclosures (June 1), and joint status
7 report (June 8).

8 On May 3, 2017, Plaintiff filed a motion to remand the instant case to state court. That
9 motion is pending, and noted for hearing on May 26. If Plaintiff's remand motion is denied, the
10 defendants will continue to seek to consolidate Plaintiff's wrongful death and personal
11 injury/survival claims. The Order Setting Trial Related Dates in the personal injury/survival case
12 was issued on March 27, 2017 and trial is scheduled to begin on March 26, 2018.

13 If, on the other hand, the remand motion is granted, then the deadlines for the FRCP 26(f)
14 conference (5/25/17), FRCP 26(a)(1) initial disclosures (6/1/17), and joint status report (6/8/17)
15 in the instant case will be moot. Therefore, the parties respectfully request a continuance of
16 these deadlines until a month after adjudication of Plaintiff's motion for remand.

17 **AUTHORITY**

18 "The district court has wide discretion in controlling discovery." *Little v. City of Seattle*,
19 863 F.2d 681, 685 (9th Cir. 1988) (affirming trial court decision to stay discovery pending
20 resolution of issue of defendants' immunity). See, *Herbert v. Lando*, 441 U.S. 153, 177, 60 L.
21 Ed. 2d 115, 99 S. Ct 1635 (1979) (court has inherent power "to exercise appropriate control over
22 the discovery process"); *cf. Landis v. North Am. Co.*, 299 U.S. 248, 254, 81 L. Ed. 153, 57 S. Ct.
23 163 (1936) (court has inherent power to stay actions in their entirety). Granting the requested
24 relief, stipulated by the parties, is squarely within the Court's inherent authority to manage its
25 cases.

CONCLUSION

2 For the foregoing reasons, the parties, represented by the undersigned counsel, request
3 that the deadlines in the April 27, 2017 Order Regarding Initial Disclosures, Joint Status Report,
4 and Early Settlement are hereby continued to one month after the date the Court issues an order
5 on Plaintiff's Motion for Remand.

6 This stipulation and agreed order have been approved as to form; notice of presentation
7 and hearing on said Order is hereby waived by the parties.

8 DATED this 25th day of May, 2017.

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JOINT MOTION TO CONTINUE
INITIAL SCHEDULING DATES

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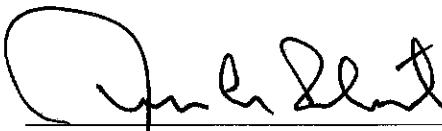
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14
15 **STIPULATED ORDER**

16 The deadlines in the April 27, 2017 Order Regarding Initial Disclosures, Joint Status
17 Report, and Early Settlement are hereby continued to one month after the date the Court issues
18 an order on Plaintiff's Motion for Remand. IT IS SO ORDERED.

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20 Dated this 29 day of May, 2017

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22 
23 JUDGE JAMES L. ROBART
24 UNITED STATES DISTRICT JUDGE

25 Presented By:

FOLEY & MANSFIELD, P.L.L.P.

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CERTIFICATE OF SERVICE

I, Wendy Cruz, hereby certify that on the 25th day of May, 2017, the foregoing was electronically filed the foregoing with the Clerk of the U.S. District Court for the Western District of Washington at Seattle using the CM/ECF system, which will send notification to all parties of record.

/s/ Wendy Cruz